

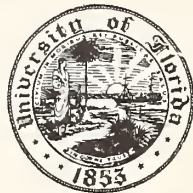


Backgrounds of Selective Service

VOLUME II • PART 3

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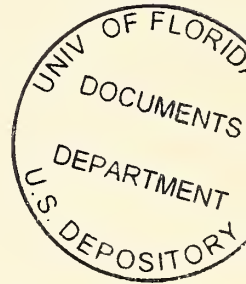
MONOGRAPH 1, VOLUME II

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BACKGROUNDS OF SELECTIVE SERVICE

Military Obligation: THE AMERICAN TRADITION

*A Compilation of the Enactments of Compulsion
From the Earliest Settlements
of the Original Thirteen Colonies in 1607
Through the
Articles of Confederation 1789*



SPECIAL MONOGRAPH NO. 1
VOLUME II
PART 3. DELAWARE ENACTMENTS

THE SELECTIVE SERVICE SYSTEM

1947

CLEARANCE COMMITTEE

BRIG. GEN. CARLTON S. DARGUSCH, *Chairman*

COL. VICTOR J. O'KELLIHER

LT. COL. ARTHUR BOONE

COL. LEWIS F. KOSCH

LT. COL. IRVING HART

COL. WILLIAM HART

MR. KENNETH H. MCGILL

PREPARED AND COMPILED BY

LT. COL. ARTHUR VOLLMER

GOVERNMENT PRINTING OFFICE

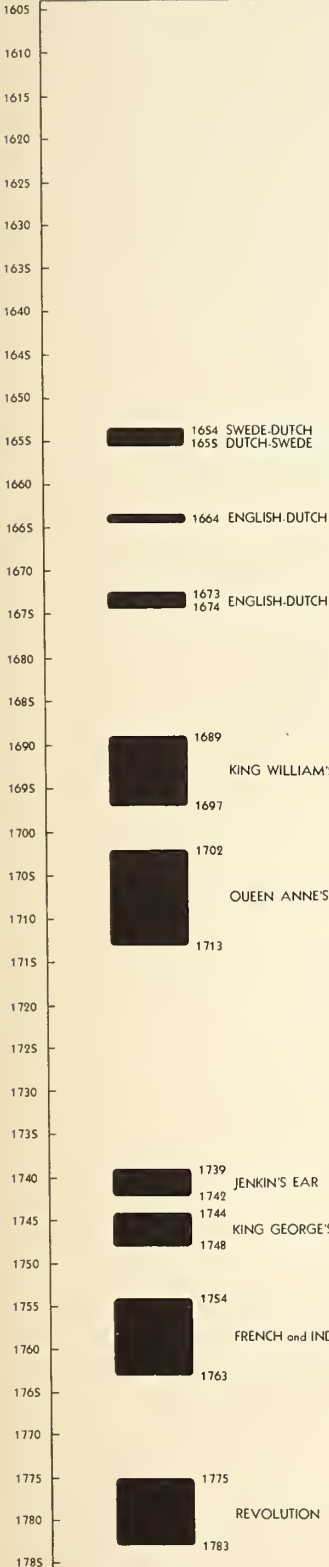
WASHINGTON : 1947

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PRINTING OFFICE, WASHINGTON 25, D. C.

Delaware

(AND SEE PENNSYLVANIA)

Year War Class I Provisions Class II Provisions



Notes

Class I Provisions are defined as general enactments of compulsion laying obligation on citizenry, or for duty in common militia, or both.

Class II Provisions are defined as drafts of members of militia and other organizations, or of citizenry, on specific occasions, or for specific purposes.

Numbers in parentheses identify Statutes reproduced in this Compilation and referred to in the Digest.

Historical Data

1610. Delaware river and bay explored by English under Lord de la War.

1631. First settlement by Dutch, near present town of Lewes. Destroyed by Indians.

1637. Settlement by Swedes at Christina Harbor.

1654. Swedish dominion ended by Dutch from New Amsterdam under Peter Stuyvesant.

1664. Charter of Charles II to James, Duke of York, covering all lands between Connecticut River and Delaware Bay.

1681. Part of Delaware included in grant by Duke of York to William Penn ("The Three Lower Counties on the Delaware" or "The Territories").

1701. Charter of Charles II to William Penn.

1776. September 21, State constitution proclaimed.

*An ACT for establisbing a
Militia within this Govern-
ment.*

WHEREAS His Majesty, for vindicating the Honour of His Crown and maintaining the Rights of His Subjects, is at this Time engaged in a War with *Spain*; and there is just Reason to apprehend that a Rupture with *France* is unavoidable. AND WHEREAS, from the Defenceless State of this Government, it is exposed not only to the Invasions of a foreign Enemy, but to the Insults also or Insurrections of our own Slaves,

Preamble.

FOR the better Security of the Lives, Liberties and Properties of His Majesty's Subjects, Inhabitants thereof, BE IT ENACTED by the Honourable GEORGE THOMAS, Esq; by and with His Majesty's Royal Approbation, Lieutenant Governor and Commander in Chief of the Counties of *New-Castle, Kent* and *Suffex* on *Delaware*, and Province of *Pennsylvania*, by and with the Advice and Consent of the Representatives of the Freemen of the said Counties, in General Assembly met, and by the Authority of the same, That every Freeholder and taxable Person residing in this Government (except such as are hereafter excepted) shall, on or before the *First Day of March* next, provide himself with the following Arms and Ammunition, *viz.* One well fixed Musket or Firelock, one Cartouch-Box, with *Twelve* Charges of Gun-Powder and Ball therein, and *Three* good Flints, to be approved of by the Commanding Officer of the respective Company to which he belongs, and shall be obliged to keep such Arms and Ammunition by him, during the Continuance of this Act; and on each Default thereof, such Person or Persons so offending, shall forfeit and pay the Sum of *Forty Shillings*, current Money of this Government aforesaid.

*Every Taxable
shall be provided
with Arms &
Ammunition;*

*On Penalty of
40s.*

AND BE IT FURTHER ENACTED by the Authority aforesaid, That all Male Persons, above *Seventeen* and under *Fifty Years* of Age (except such as are hereafter excepted) shall be inlisted, by themselves, their Parents or Masters, on or before the *First Day of March* next,

*All Males, be-
tween 17 and
50 Years of
Age, shall be
inlisted.*

331. Del.—Assembly; Laws, Gov't Newcastle, Kent & Sussex, B. Franklin, 1741; Act, n. d., pp. 171–178.

And shall appear with their Arms, &c. 4 times a Year, in order to be instructed in military Exercise.

Penalty on refusing to enlist, or not appearing when enlisted.

next, as aforesaid, under the respective Officer or Officers that shall be appointed for that Purpose, by the Governor for the Time being, in every Hundred in each of the Counties within this Government: And, being so enlisted, shall appear and attend in their own proper Persons, with their Muskets or Firelocks, Cartouch-Boxes and *Six* Charges of Powder and Ball, each, together with *Three* Flints, all in good Order and fit for Service, at the respective Places of Meeting that shall be appointed by the commanding Officer under whom they are enlisted, *Four* Times in every Year, *viz.* On the last *Saturday* in *March*, on the last *Saturday* in *May*, on the last *Saturday* in *July*, and on the last *Saturday* in *September*, each Day, at the Hour of *Twelve*; and shall continue under Arms, any Time not exceeding *Four* Hours, in order to be taught and improved in military Exercise; who are hereby strictly required and obliged, to render due Obedience unto the Commands of their respective Officers (according to the Rules of military Discipline) for that Purpose: And every Person that refuses to enlist, as aforesaid, or being enlisted, as aforesaid, neglects or refuses to appear in the Manner aforesaid (unless he shew to the commanding Officer sufficient Reason for such Neglect or Refusal) or appearing in the Manner aforesaid, shall wilfully disobey the Officers aforesaid, upon every such Default, being duly convicted thereof, before one Justice of the Peace, shall forfeit and pay the Sum of *Five Shillings*, current Money aforesaid.

The whole Militia of each County shall appear at General Reviews.

Penalty on Neglect, or Disobedience.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That the whole Militia of each respective County within this Government, shall be obliged to appear and attend, as often, and at such Place as the Governor, for the time being, shall see meet to appoint or direct a General Review, he being present. And every Person, enlisted as aforesaid, having due Notice thereof, that shall neglect or refuse to appear at and attend the said General Review (unless he shew unto the commanding Officer of the Company to which he belongs sufficient Reason for such Neglect or Refusal) or attending, shall wilfully disobey the Commands of the said Officer or Officers (or those empowered by him or them) upon due Conviction thereof, as aforesaid, shall forfeit and pay the Sum of *Five Shillings*, current Money aforesaid.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That the Firing *Four* Muskets
or

or Firelocks successively, and distinct one after another, and the Beating of a Drum; or the Firing two great Guns at *Four* Minutes distance of Time, and beating the Drum, shall be deemed and taken for an Alarm. And that the commanding Officer of each Company, who shall first receive an Account of such Alarm, shall forthwith cause Notice thereof to be given to the commanding Officer of the Company that shall be in the adjoining District, which said commanding Officer, so receiving Notice, shall, in like Manner, cause Notice thereof to be given to the commanding Officer of the next adjoining Company to him, and so on, in the like Manner, till Notice thereof be given, generally, through the whole County; which said commanding Officer, and every of them, shall also forthwith cause an Alarm to be made, for the Raising the several Companies; and when raised, whether the same be in the Day-time or in the Night, shall forthwith march the same to the Place where the Alarm first arose, in order to defend the Town or Place where any Invasion, Descent or Insurrection shall or may happen to be made, under the Penalty of *Five Pounds*, for each and every such Neglect or Default.

What shall be deemed an Alarm, and how the same shall be communicated.

Duty of the Companies, when raised.

Penalty on Neglect.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That every Person (except such as shall be hereafter excepted) receiving an Account of such Alarm, shall obey all and every the Commands of the said Officer and Officers, and those empowered by them for the Defending of the Town or Place, within the said County, from any Invasion, Descent or Insurrection, which shall or may happen to be made, and shall not depart, without Leave of the said Officer or Officers first had and obtained. AND if any Person, being an Inhabitant within the Limits aforesaid, who is obliged, by the Directions of this Act, to attend the common Muster or Exercise, or to provide and keep by him Arms and Ammunition, &c. shall, upon such Alarm given, neglect or refuse to attend (unless he shew to the commanding Officer sufficient Reason for such Neglect or Refusal) with his Arms and Ammunition, at the Place or Places whithersoever he shall be commanded by the said Officer or Officers, or those empowered by them or either of them, as aforesaid; or attending, shall wilfully disobey their or either of their Commands relating to the Defence aforesaid; or depart from the said Town or Place, without having Leave as aforesaid, every such Person so offending, upon due Convic-

Obedience enjoined.

Penalty on Non-appearance, or Disobedience.

X x

tion

tion made before any Two Justices of the Peace for the said County wherein such Offence is committed, shall forfeit and pay the Sum of *Forty Shillings*, current Money aforesaid.

Penalty on making an Alarm without Command of an Officer. AND if any Person or Persons shall, without the Command of the said Officer or Officers, or of such Person or Persons whom they or either of them shall empower, presume to make an Alarm within the Limits aforesaid, every such Person so offending, and being thereof legally convicted before any Court of Justice for the said County, shall, for every such Offence, be fined in the Sum of *Five Pounds*, current Money aforesaid; the one Moiety whereof shall be paid to the Informer, and the other Moiety as shall be hereafter directed.

Drums, Colours and Halberts to be provided at the publick Expence. AND BE IT ENACTED by the Authority aforesaid, That the several Treasurers of the respective Counties within this Government, shall, at the publick Expence, provide for each Company in the several Counties, *One* good Drum, a Pair of Colours, and *Two* Halberts; which Expence, and Costs, is hereby ordered to be raised and levied by the Court and Grand-Jury, at the Time for laying the Levies for the several Counties aforesaid.

Rules and Orders made by the Governor, shall be observed. AND BE IT ENACTED by the Authority aforesaid, That during the Time the Officers and their Companies shall be under Arms, they shall be obedient to their superiour Officers, and shall observe and keep all and every the Rules and Orders that the Governor, for the time being, shall think proper to make and direct; provided the same do not exceed, in Severity, the Rules and Orders established for the regulating the Militia in that Part of *Great-Britain* called *England*. And in Order that the several Companies may the better learn and know their Duty, the several Captains thereof are hereby directed, to cause such Rules and Orders, as aforesaid, to be publickly read at the Head of each of their Companies, on each of the Days they shall muster, during the Time they are under Arms, on Pain of forfeiting the Sum of *Forty Shillings*, current Money, for each Neglect.

Such Orders shall be read publickly.

Penalty on Neglect.

Captains shall appoint Places of Meeting: AND BE IT ENACTED by the Authority aforesaid, That the several Captains within this Government, shall appoint their several Companies to meet and muster, on the Days and Times herein before directed, at the

the most convenient Place or Places in the several Hundreds to which their Companies belong ; provided the same be not within the Distance of *One Mile* of any Tavern or Inn (the Town Companies within this Government only excepted) under the Penalty or Forfeiture of *Forty Shillings*, current Money aforesaid, for each Neglect or Offence.

The same not being within one Mile of any Tavern, &c.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That if any Person or Persons whatsoever, shall sell, or expose to Sale, at such Places of Muster as aforesaid, any Sort of strong Drink whatever, such Person so offending, shall forfeit and pay the Sum of *Forty Shillings*, current Money aforesaid.

Penalty on selling Drink at the Places of Mustering.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That (in order to prevent any false Alarms being made by Firing Guns in the Night-time after the *First Day of March* next as aforesaid) if any Person whatsoever, shall presume to fire any small Arms or Guns from *Two Hours* after Sun-set until *One Hour* before Sun-rise, unless in Case of Invasion, Descent or Insurrection, or other lawful Occasion, every Person so offending, shall forfeit and pay the Sum of *Forty Shillings*, current Money, for every such Offence. AND that no Captain, Master, or Commander of any Ship, or Vessel, within any Harbour belonging to this Government, or in the River *Delaware*, shall fire or suffer to be fired any great Guns or small Arms, from *Two Hours* after Sun-set until *One Hour* before Sun-rise, as aforesaid (the Commanders of His Majesty's Ships of War only excepted) under the Penalty and Forfeiture of the Sum of *Twenty Shillings*, current Money as aforesaid, for every Gun so fired.

Penalty on firing Guns in the Night, &c.

AND BE IT ENACTED by the Authority aforesaid, That the Drummers belonging to the several Companies within this Government, shall each of them be paid the Sum of *Twenty Shillings per Annum*, for their Service in the Militia, by the Treasurer of the respective Counties to which they belong ; which said Sums shall be levied and raised as other County Levies are, as aforesaid.

Drummers, their Pay.

AND BE IT ENACTED by the Authority aforesaid, That any one Justice of the Peace, in or nearest to the Town of *New-Castle* (who is not of the People called *Quakers*) together with the commanding Officer of the Company

Watch to be kept in the Town of New-Castle.

Company to which the Inhabitants of the said Town belongs, shall, and are hereby impowered, to give the necessary Directions and Orders (as they shall think fit) for the keeping a Night-Watch in the Town aforesaid, for the Security of the same: And after such Directions and Orders given, every Person (except such as are hereafter excepted) having due Notice thereof, neglecting or refusing to attend on the said Watch (unless he shew unto the said Justice or Officer sufficient Reason for such Neglect or Refusal) shall forfeit and pay the Sum of *Five Shillings*, current Money aforesaid.

Quakers exempted from bearing Arms, &c.

AND BE IT ENACTED by the Authority aforesaid, That every Person who is of the religious Society of the People called *Quakers*, is entirely exempted and excused from providing and bearing Arms, as aforesaid, in the Militia, attending the Exercise, and keeping the Watch, and from every Part thereof; he paying, for every Day that others are obliged to attend the said Muster, Exercise, or Watch (in Consideration of the said People, called *Quakers*, maintaining their own Poor, and contributing towards the Support of the Poor of other Societies also) but the Sum of *Two Shillings and Six-pence*, current Money aforesaid.

Producing a Certificate from the Meeting they belong to, if required.

PROVIDED that such Person produces unto the commanding Officer, in the District where such Person dwells, within *Two Months* after he shall be by the said Officer thereunto required, a Certificate from the Meeting to which he says he belongs, testifying that he is actually deemed to be a Member of the said Society; which said Fine of *Two Shillings and Six-pence* for every such Person, shall be paid unto the Collector of the Hundred wherein such Person dwells, for the Use of the Poor, within *Ten Days* after such Days of Mustering as aforesaid; and upon Default thereof, the said Fine shall be recovered by Warrant under the Hand and Seal of any one Justice of the Peace (who is not a *Quaker*) within the County where the Person dwells, by Distress and Sale of the Offender's Goods and Chattels.

Justices and others exempted;

AND also, that all Justices of the Peace, Physicians, Lawyers, and Millers, and Persons incapable through Infirmities of Sickness or Lameness, shall be exempted and excused from appearing to muster, except in Case of an Alarm: They being nevertheless obliged, by this Act, to provide and keep by them Arms and Ammunition as aforesaid, as well as others. And if an Alarm happen, then all those, who by this Act are obliged to keep Arms as aforesaid,

But shall nevertheless provide Arms, &c.

aforesaid, as well as those who are obliged to attend the General Muster or Exercise, shall join the General Militia, and yield Obedience as aforesaid, under the Penalty and Forfeiture of the Sum of *Forty Shillings*, as aforesaid. All Ministers being intirely exempt from any Duties or Fines whatsoever required of others (*viz.* of those that are not Ministers) by Virtue of this Act.

And join the General Militia on an Alarm, under Penalty of 40s.

AND BE IT ENACTED by the Authority aforesaid, That all the Fines, amounting to and not exceeding the Sum of *Five Shillings*, mentioned in this Act, shall be paid to the Captain of the Company where such Fines and Forfeitures arise, within *Ten Days* after the Offence or Offences are committed (which occasions the said Fines) by the Person or Persons offending as aforesaid : And upon Non-payment thereof, the same shall be recovered by Warrant under the Hand and Seal of any Justice of the Peace of the County where such Fines and Forfeitures arise, in like Manner as Debts under *Forty Shillings* are recovered, and paid to the said Captain as aforesaid, to be applied to the purchasing of Arms and Ammunition for those who are not Taxables, and who are nevertheless obliged to appear, as by this Act is directed ; which said Captain is hereby ordered and directed, to account once in each Year with the Treasurer of the County where such Captain dwells.

Fines of 5s. & under, to be paid to the Captain, within Ten Days, or recovered by Warrant, &c.

The Captain to account yearly.

AND all Fines and Forfeitures, exceeding the Sum of *Five Shillings*, already mentioned in this Act, shall, upon the Offender's refusing to pay the same, be recovered by Warrant under the Hands and Seals of any two Justices of the Peace of the County where such Fines and Forfeitures arise, by the Distress and Sale of the Offender's Goods and Chattels, and paid to the Treasurer of the said County, to be applied as aforesaid (except such Part as by Virtue of this Act shall belong to any Informer or Informers) and for Want of such Goods and Chattels, such Offender or Offenders as aforesaid, shall be committed to the Goal of the County aforesaid, and there remain until the Fine or Fines and Costs be fully paid and satisfied.

Fines exceeding 5s. how to be recovered.

AND BE IT ENACTED by the Authority aforesaid, That all Magistrates and Officers, that shall be appointed by the Governor for the Time being, (and being qualified as such) for the putting this Act in Execution, who shall neglect or refuse to do their Duty, and shall be duly convicted thereof, by the Testimony of two sufficient

Magistrates & Officers refusing to put this Act in Execution, forfeit 5 l.

V v

Witnesses,

Witnesses, or the Confession of the Party offending, before the Justices of the Court of *Quarter-Sessions* for the County wherein the Offence is committed, shall, for every such Default, forfeit and pay the Sum of *Five Pounds*, current Money aforesaid, to be levied, with Costs, by Distress and Sale of the Offender's Goods and Chattels, and to be applied as aforesaid.

Penalty on Officers taking more Goods than Treble Value in Execution.

Persons hereby directed to appear &c. exempted from Arrests on Mustering Days, &c.

AND BE IT ENACTED by the Authority aforesaid, That no Officer shall presume to take more Goods or Chattels in Execution, by Virtue of this Act, than Treble the Value of the Sum mentioned in the Precept by Virtue of which he executes the same, under the Penalty of *Forty Shillings*, to be recovered and applied as aforesaid, the Overplus (if any there be) to be returned to the Owner. AND also that no Person or Persons whatsoever, that by this Act is directed to appear and muster as aforesaid, shall be liable to be taken by any Officer, in any Civil Action whatsoever, on the Day whereon such Person is directed to appear, nor in the Night following after such Day of Appearance.

No Servant or Slave shall be allowed to bear Arms, &c.

X AND BE IT FURTHER ENACTED by the Authority aforesaid, That no bought Servant, or Negro or Mulatto Slave, shall, upon any Pretence whatsoever, be allowed to bear Arms, or to be mustered in any of the Companies of the Militia within this Government. X

The Act for securing Lewes shall remain in force.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That an Act of General Assembly of this Government, made in the *Thirteenth Year* of His present Majesty's Reign, entituled, *An Act providing for the better Security and Defence of the Town of Lewes in the County of Sussex, within this Government*, and every Part thereof, shall be and remain in full Force, any thing in this Act contained to the contrary notwithstanding.

Limitation of this Act.

X AND BE IT ENACTED by the Authority aforesaid, That this Act shall continue and be in full Force for and during the Space and Term of *Three Years* from and after the Publication of the same; or so long as any War shall subsist with *Great-Britain*, which ever shall first happen to expire. X

Signed by Order of the House,

THOMAS NOXON, *Speaker.*

ANNO VICESIMO NONO REGNI REGIS GEORGII
SECUNDI

*AN ACT for establishing a Militia in
this Government*

WHEREAS the Subjects of the french King and their Savage Indian Allies have Contrary to the faith of the Most Solemn Treaties encroached upon and invaded his Majesty's Dominions on this Continent and have in the Most Cruel and Barbarous Manner Attacked and Murdered Great Numbers of his Majesty's Liege Subjects Inhabiting near the Fortiers of the Neighbouring Provinces and laid Waste a great Extent of Country. AND WHEREAS the Representatives of the free men of the Counties of Newcastle, Kent and Sussex on Delaware being Moved by a sense of Duty to his Most Excellent Majesty and being Concerned for the safety and security of their Constituents think themselves indispensably obliged—in this time of Danger to put—this Government into a Posture of Defence and make due Provision by Law that the Inhabitants may be trained and Exercised in the Art of War whereby they may not only be enabled to Assert the Just Rights and Vindicate the Honour of his Majestys Crown but also to defend themselves and their lives and Properties and Preserve the Many Invaluable Rights and Privileges that they enjoy under their Present Constitution and Government. They therefore pray that it may be enacted. And BE IT ENACTED by the Honourable ROBERT HUNTER MORRIS Esquire with his Majestys Royal Approbation Lieutenant Governor and Commander in Chief of the Counties of Newcastle kent and Sussex on Delaware and Province of Pennsylvania under the Honourable THOMAS PENN and RICHARD PENN Esquires true and Absolute Proprietaries of the Counties and Province Aforesaid by and with the Advice and Consent of the Representatives of the Freemen of the Said Counties in General Assembly met and by the Authority of the Same, *That every Male Person residing in this Government above Seventeen and under fifty years of Age (Except bought Servants or Servants Adjudged to serve his Creditors) shall on or before the first day of May next inlist himself or be inlisted by his Parent or Master with the Captain or Officer that shall be appointed and Commissionated by the Governor and Commander in Chief for the time being in every Hundred or District within this Government where such Person shall live or sojourn under the Penalty of five shillings and the further Penalty of Ten Shillings for every three Months he shall remain not Inlisted in manner aforesaid and in Case any dispute Shall Arise about the age of any Person the same shall be determined by the Commanding Officer before whom such dispute shall happen by the oath or Affirmation of the Person whose age is in Question or the oath or Affirmation of his Parent or some other Credible Witness, which oath or Affirmation the said Officer is hereby Impowered to Administer and to determine Accordingly.*

631 Del.—Assembly, Pub. Archives Comm., Dover, Del.; Act 1756, typescript, pp. 1–6.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That *every such Male Person* (except such as in the Judgment of the Captain or other Commanding Officer of the Hundred or district in which he resides be Adjudged incapable by reason of his Poverty *shall* on or before the fifteenth day of May next *provide himself with one, well fixed Musket* or fuzee with a Worm and priming wire one Cartouch Box with Nine Charges of Gun powder and Ball suitable therein and three good flints to be Approved of by the Commanding Officer of the respective Company to which he belongs, and shall keep such Arms and Ammunition by him, in good Order and fit for Service at all times during the Continuance of this Act under the Penalty of Twenty Shillings for want of a well fixed Musket or fuzee with a worm and priming wire and Two Shillings and Six Pence for the want of every Cartouch Box and two Shillings for the want of Nine Charges of Gun Powder and Ball and three flints or any of them.

AND BE IT FURTHER ENACTED by the Authority Aforesaid, That every such male person shall and are hereby Required to attend in their Proper Persons with the Arms, Amunition and Accoutrements aforesaid in Good Order and fit for Service at the respective Places of Meeting in each Hundred that shall be for that purpose Appointed by the Commanding Officer under whom they are inlisted Six times in every year That is to say on the last friday in the Months of May, July, September, October, March and April in the County of Newcastle and the Last Saturday in each of the said Months in the Counties of Kent and Sussex each day at the Hour of Twelve in Order to be taught and instructed in the Military Exercise and shall Continue under arms any time not exceeding Four Hours and Shall yeild due Obedience unto the Orders and Commands of their respective Officers, and every Person refuseing or neglecting to Appear on the Days and Times Aforesaid Armed in Manner aforesaid (unless he renders such a reasonable Excuse to the Said Commanding Officer as he shall allow and Approve of) or shall refuse or Neglect to Yield Obedience to the Orders and Commands of his Said Officers shall for every such default forfeit and Pay the Sum of five Shillings.

AND BE IT FURTHER ENACTED by the Authority Aforesaid That the Colonel of each respective Regiment within this Government or in Case of his Death or Absence the next Commanding Officer shall and May (if Occasion requires) once in every year direct the whole Regiment under his Command to meet at such Place as he shall appoint as Near the Center of each County as Conveniently may be in Order for a General Review of the Same and every Male Person in the said County under Fifty and above Seventeen Years of Age are hereby strictly required and enjoined to meet at the Place so Appointed with the Arms, Accoutrements and Ammunition above Mentioned in Good Order and then and there shall yield due obedience to the Orders of Such Colonel or Commanding Officer, and every Person refusing or neglecting to Attend in Manner aforesaid (unless a reasonable Excuse shall be made to and allow'd of by such Officer) or shall refuse or neglect to yield Obedience to the Commands of such Officer Shall for every Such Default pay the sum of Seven Shillings and Six pence.

AND BE IT FURTHER ENACTED by the Authority Aforesaid that once in every year the Captains or in their Absence the next Commanding Officer of every Respective Company shall deliver to the Colonel or in his Absence to the next Commanding Officer of the Regiment for each County a muster Roll under his hand Containing the Names of all the Persons belonging to and enlisted in his Company under the Penalty of Three Pounds for Such Neglect And the said

Colonel or next Commanding Officer shall within Two Months next after the receipt of Such Roll send a Copy thereof under his hand to the Governor or Commander in Chief of this Government for the time being under the Penalty of Five Pounds.

AND BE IT FURTHER ENACTED by the Authority aforesaid That the Commander in Chief of this Government for the time being may and shall make and Establish Such Articles and Rules for the Regulating and Better Governing of the Militia of this Government while under Arms or in actual Service as he shall judge meet and expedient. PROVIDED ALWAYS that no Punishment to be inflicted by the said Articles or rules for the Breach thereof shall be otherwise than by fine not Exceeding Five Pounds or Imprisonment not Exceeding ten days and all Captains or other Commanding Officers are hereby required Publicly to read Such Rules and Articles so Made at the Head of his Company when and as often as they shall Meet to be Exercised in the Manner Above directed and every Persons inlisted shall yield due Obedience to and shall strictly Observe the Rules laid down in such articles under the Pain of incurring the Penalty's therein prescribed for the Breach thereof.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That the firing of four Muskets successively and distinctly and the Beating of a Drum or the firing of Two Great Guns at four Minutes distance of Time and the Beating of a Drum shall be the Signals of and be deemed and taken to be an Alarm and the Commanding Officer of each Company who shall first have notice of an Alarm shall forthwith raise the Company under his Command and also send Immediate Notice and Intelligence thereof to the Commanding Officer of the next Hundred or District who shall in like Manner cause notice to be given to the next Commanding Officer and so on 'till general notice be given throughout the whole County and the Captains or other Commanding Officer of each respective Company shall march with his Company to such Place of Rendezvous as Shall be Appointed by the Colonel of his Regiment shall and are hereby impowered on such Occasions to impress Horses and Carriages as the service may require under the Penalty of Thirty Pounds for each and every such default or neglect and being degraded and thereafter rendered incapable of holding or exercising any Office Civil or Military within this Government; and every Lieutenant or Ensign upon such alarm neglecting or refusing to join his respective Company and to do the duties of his Office shall forfeit and pay, the Lieutenant the sum of Twenty Pounds, and the Ensign the sum of ten Pounds and be also degraded and thereafter rendered incapable of Holding or exercising any Office Civil or Military within this Government.

AND BE IT FURTHER ENACTED by the Authority aforesaid that upon every such Alarm every person within this Government above the Age of Seventeen years and under the age of fifty and every Officer under the degree of a Captain shall and is hereby required Immediately to repair with the Arms and Accoutrements Aforesaid to the habitation of the Captain of the Hundred in which he resides or the Company in which he is inlisted unless some other place shall be appointed for that Purpose thereto Receive such Orders and March to such Place as he shall Appoint, and shall obey all such Commands as the said Captain or next Commanding Officer shall give and shall not depart from his Colours without leave of the said Officer first had and Obtained under the Penalty of five Pounds for each and every such Default and Offence.

AND BE IT FURTHER ENACTED by the authority aforesaid that if any field Officer of the respective Regiments in this Government in the time of an

alarm Invasion or Insurrection shall Neglect or refuse to do the duty of his Office such field Officer so Offending shall forfeit and pay for such offence, that is to say, a Colonel the sum of one Hundred Pounds, a Lieutenant Colonel the sum of Eighty Pounds and a Major the sum of Sixty Pounds and moreover shall be Cashiered and ever after rendered incapable of holding or exercising any Office Civil or Military within this Government and if any Person or persons except an Officer or some person by him impowered and directed shall Presume to make the signals of an alarm in Manner aforesaid within this Government he or they shall for such Offence forfeit and pay the sum of ten Pounds and for the Preventing any false alarms being made.

BE IT ENACTED by the authority aforesaid that from and after the first day of May next no person or persons shall presume to fire any small arms or guns from two Houres After Sun set until one Hour before sun rise unless in case of Invasion Desent or Insurrection or other Lawful Occasion under the Penalty of Twenty Shillings for every such Offence and that no Captain, Master or Commander of any Ship or other Vesel within any Port or harbour in this Government shall fire or suffer to be fired any Great Guns or small Arms on Board such Ship or other Vesel Within the times aforesaid under the like Penalty of Twenty Shillings.

AND BE IT FURTHER ENACTED by the authority aforesaid that if any person or Persons either Officers or Soldiers shall be wounded or disabled upon an Invasion or in any Military Service under this Act he or they shall be taken Care of Supported and Maintained according to his Rank and Dignity at the Publick Charge of the County to which he or they Belong during the time of his or their Disability.

AND BE IT FURTHER ENACTED by the Authority aforesaid that no person or Persons by this Act directed and required to meet and Muster at the Days and times aforesaid shall be liable to be arrested or taken by any sheriff, Constable or other Officer in any Civil Action.,—whatsoever on the day of such meeting or in any reasonable time either in going to Continuing at or returning from such place or places of Meeting but every such arrest shall be ipso facto Void and the officer making the same shall be liable to an Action of Trespass for false Imprisonment at the Suit of the Party so Arrested Contrary to the Directions of this Act and the Said Party shall be forthwith set at liberty and discharged from the Custody of such Officer by order of any two Justices of the Peace of the County where such Arrest is made and the arms, Ammunition and Accoutrements aforesaid of every person required by this Act to provide and keep the same for Military Service shall be and are hereby declared to be exempt and privileged from all distress, Executions, Extents, Attachments or other Process whatsoever and any Civil Officer destraining siezing, Attaching, or taking the same in Execution shall forfeit and pay the sum of Twenty Shillings to the Partie Grieved and any Sale thereof by him shall be Null and Void.

AND BE IT FURTHER ENACTED by the authority Aforesaid that no Captain or other Officer shall Appoint any place of Meeting for his Company (town Companys only Excepted) within the Distance of half a mile of any Inn or Tavern under the Penalty of Forty Shillings for every such Offence and that no person or persons shall presume to keep a Booth or tent or expose to sale at or Bring on any Pretence whatsoever any strong Liquor to such place of Meeting under the Penalty or Forty shillings for every such offence.

AND BE IT FURTHER ENACTED by the Authority aforesaid that the Several Treasurers of the respective Counties in this Government shall at the

Public Expence provide for each Company in the said Counties not already furnished or provided therewith one good Drum a pair of Colours and two Halberts, which expence and Cost is hereby ordered to be raised and Levy'd by the Levy Courts of the Several Counties at the usual time of Laying the Levy's and raised in the manner as other County rates and Levys are.

AND BE IT ENACTED by the Authority aforesaid that each Captain shall nominate and appoint a proper and Capable person out of his Company to be his Drummer and in Consideration of such Service he shall be and is hereby declared to be exempted from providing himself with the arms and accoutrements required of every other person by this Act.

AND BE IT FURTHER ENACTED by the Authority aforesaid That all Supream Judges, all Justices of the Peace, Prothonitaries, Registers, Lawyers, Physicians, Surgeons all Persons who have Acted as Commissioned Officers under any former Militia Law of this Government, one Miller to every Grist Mill and every keeper of a Publick Goal within this Government Shall be and are hereby declared to be free and exempt from actual Military duty or service whatsoever except on a General alarm or in the time of Actual Invasion at which times they shall appear and do duty in the same manner as other persons are Directed and required by this Act under the Like Penalty's imposed herein on other Offenders.

PROVIDED ALWAYS that nothing herein Contained shall be deemed or Construed to exempt such persons from Providing and keeping at all times by them fit for service such Arms ammunition and Accoutrements as others are required to do under the Penalty for forfeiting and paying for every such offence the sums imposed on other Delinquents and all ministers of the Gospel as well Quakers as others are hereby exempted freed and discharged from all and every the Duties and services required of others by this Act.

AND BE IT FURTHER ENACTED by the authority Aforesaid That the several fines and forfeitures mentioned in this Act due from any Person under the Degree of a Commissioned Officer that do not exceed the Sum of Twenty Shillings shall be paid by the Person or persons offending to the Captain of the Company of the Hundred or District in which such person lives within ten days after the Commission of such offence and shall be applied by the said Captain towards the Purchasing Arms Ammunition and accoutrements for such persons in the said Company as shall not (in the Judgment of the said Captain) be of ability to purchase the same and in Case of nonpayment of the said fines and forfeitures within the time aforesaid the same shall be recovered by Distress and sale of the offenders Goods and Chattles by Warrant under the hand and Seal of any one Justice of the Peace of the County wherein such fine or forfeiture arises and in Case no goods or Chattles can be found then by Imprisonment of the Body of the said Offender untill payment made of the said fine and the said Captain shall settle an Account once in every year with the Colonel of the Regiment to which he belongs shewing what fines he hath received and how he hath disposed of the Same and all such fines and forfeitures as exceeding the sum of Twenty Shillings that shall not be paid to the Captain within the time of aforesaid shall be recovered by Warrant under the hands and seals of any three Justices of the Peace of the County in which the offence is Comitted and be disposed of in the Manner above directed and all fines by this Act imposed on any Commissioned Officer under the degree of a Colonel for a Breach or neglect of his duty shall be paid within the time above mentioned to Colonel of the Regiment to which such Officer doth belong to be recovered

by the said Colonel in any Court of Record within this Government by Action of Debt, Bill plaint or Information wherein no Essoin, Protection or wager of Law shall be allow'd nor any more than one Imparlance and shall be applied by the said Colonel to the Purchasing of Arms, Ammunition and Accoutrements for such Company or Companies as may stand most in need of the Same and from the time of such Conviction Such Officer shall be and is hereby declared to be Incapable thence forth from holding, enjoying or exercising any office Civil or Military within this Government and each respective Colonel shall annually account with the Assembly of this Government for all fines by him recovered and applied in Manner Aforesaid and all fines by this Act Imposed on a Colonel for a Breach or Neglect of his Duty to be paid by him within the time aforesaid to the County Treasurer for the time being of the County in which he resides to be recovered in the manner and form last above Mentioned and applied by the Said Treasurer to the Purchasing of arms Ammunition and Accoutrements for such Company or Companys as the Lieutenant Colonel and Major of the said Regiment shall direct and appoint and the said Treasurer shall annually account with the Assembly of this Government for such fines so recovered and Applied.

AND BE IT FURTHER ENACTED by the Authority aforesaid that if any Justice or Justices of the Peace within this Government shall refuse or Neglect to issue Warrants in Manner aforesaid on Application to him or them for that [use] made by the Proper Officer or if any Colonel or Captain or other Commanding Officer shall thro' favour [or] partiality neglect or refuse to recover and receive the fines and forfeitures by this Act imposed on persons Offending against the same or any part thereof and shall be thereof Convicted by the Testimony of two Credible Witnesses or the Confession of the Partie Offending before the Justices of the Court of Quarter Sessions for the County where such offence shall be Committed who are hereby Impowered and required in a summary way to hear and Determine the same he or they so Offending shall forfeit and pay the sum of four pounds to be Levied with Costs by Process Issuing out of the said Court and such forfeiture shall be applied to the use of the Poor of the County respectively.

AND BE IT FURTHER ENACTED by the authority Aforesaid that if any suit or Action shall be brought against an Officer Civil or Military for doing the duty enjoined or required of him or them by this act he or they may plead the General issue and give this Act in Evidence an if the Plaintiff in such suit shall discontinue his Action be non suited or a Verdict shall Pass against him or Judgment be given against him on Demurrer, he shall pay to the Defendant Treble Costs.

AND BE IT ————— ENACTED by the Authority aforesaid that this Act shall continue and be in force for the Term of one Year and from thence to the end of the next Sessions of Assembly and No longer.

Newcastle March 24th 1756 I assent
to this Bill enacting the same and order
it to be enrolled

ROB^t H. MORRIS

I DO hereby Certifie that the above and foregoing Seven Sheets is a true Copy Compared with the Original at Newcastle WITNESS my hand and Seal this Thirtieth day of March Annoq. Domini 1756.

RICH^d. M; WILLIAM.

XIII. An A C T for establishing a Militia in
this Government.

WHEREAS Self-preservation is the first Principle Preamble.
and Law of Nature, and a Duty that every Man indis-
pensibly owes not only to himself but to the Supreme Di-
rector and Governor of the Universe, who gave him a Being.
AND WHEREAS, in a State of political Society and
Government, all Men by their original Compact and Agree-
ment are obliged to unite in defending themselves, and those
of the same Community, against such as shall attempt unlaw-
fully to deprive them of their just Rights and Liberties ;
and it is apparent, to every rational Creature, that without
Defence no Government can possibly subsist. AND
WHEREAS our most Gracious Sovereign is at this
Time engaged in a just and necessary War against the
French King, who, contrary to the Faith of the most solemn
Treaties, hath encroached upon, and invaded His Majesty's
Dominions, on this Continent, and hath laid waste a great
Extent of Country in the neighbouring Colonies, and his
Subjects and *Savage Indian* Allies are daily committing the
most cruel and unparallelled Murders and Barbarities on his
Majesty's liege Subjects inhabiting near the Frontiers ; We,
the Representatives of the Freemen of the Counties of *New-
Castle, Kent and Sussex*, upon *Delaware*, moved by a just
Sense of Duty to his most Excellent Majesty, and concern-
ed for the Safety and Security of our Constituents, being
persuaded that a well regulated Militia is the most effectual
Guard and Security to every Country, think ourselves oblig-
ed, in this Time of Danger, to put this Government into a
Posture of Defence, and make due Provision by Law, that
the Inhabitants may be armed, trained and disciplined in
the Art of War. whereby they may be enabled not only to
assert the just Rights of his Majesty's Crown, but also to de-
fend themselves, their Lives and Properties, and preserve the
many invaluable Privileges they enjoy under their present
happy Constitution : Wherefore, We pray that it may be enact-
ed ;

AND BE IT ENACTED by the Honourable
WILLIAM DENNY, Esq; with his Majesty's royal
Approbation, Lieutenant-Governor, and Commander in Chief
of the Counties of *New-Castle, Kent and Sussex*, upon *Delaware*,
and Province of *Pennsylvania*, by and with the Advice and
Consent of the Representatives of the Freemen of the said
Counties, in General-Assembly met, and by the Authority of the
the

333. Del.—Assembly; Laws, Gov't Newcastle, Kent & Sussex, Jas. Adams;
Vol. II, 1763; Act, Nov. 5, 1757, pp. 11–20.

All Persons
above Se-
venteen,
and under
Fifty, Years
of Age shall
inlist, &c.

the same, That every Male Person residing, or that hereafter shall come to reside, in this Government, above Seventeen, and under Fifty, Years of Age (except bought Servants, or Servants adjudged to serve their Creditors) shall, on or before the first Day of *January* next, inlist himself, or be inlisted by his Parent or Master, with the Captain or Officer that shall be appointed and commissioned by the Governor and Commander in Chief, for the Time being, in every Hundred or District within this Government, where such Person shall live or sojourn, under the Penalty of *Five Shillings*, and the further Penalty of *Seven Shillings and Six-pence* for every three Months he shall remain not inlisted in Manner aforesaid; and in case any Dispute shall arise about the Age of any Person, the same shall be determined by the Commanding Officer before whom such Dispute shall happen, by the Oath or Affirmation of the Person whose Age is in Question, or the Oath or Affirmation of his Parent, or some other credible Witness; which Oath or Affirmation the said Officer is hereby empowered to administer, and to determine accordingly.

All Officers
to take the
Oaths, &c.

AND BE IT FURTHER ENACTED, That every commissioned Officer or Officers, before he or they shall enter upon the Execution of their respective Offices, shall take the Oaths appointed to be taken in and by an Act passed in the first Year of his late Majesty King GEORGE the First, intituled, *An Act for the further Security of his Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for extinguishing the Hopes of the pretended Prince of Wales, and his open and secret Abettors*; and shall also make, repeat and subscribe, the Declaration in the said Act mentioned; which said Oath shall be taken, and the Declaration subscribed, before some one of the Commissioners already appointed, or hereafter to be appointed, by the Governor, for such Purposes in each respective County.

Persons in-
listed to pro-
vide them-
selves Arms,
&c.

AND BE IT FURTHER ENACTED, That every Male Person above Seventeen, and under Fifty, Years of Age, (except such as in the Judgment of the Captain, or other Commanding Officer, of the Hundred or District in which he resides, be adjudged incapable by Reason of his Poverty) shall, on or before the first Day of *January* next, provide himself with one well fixed Musket, or Fuzee, with a Worm and Priming-wire, one Cartouch-Box, with nine Charges of Gunpowder, and Ball suitable therein, and three good Flints, to be approved of by the Commanding Officer of the respective Company to which he belongs, and shall

shall keep such Arms and Ammunition by him in good Order, and fit for Service, at all Times during the Continuance of this Act, under the Penalty of *Twenty Shillings* for want of a well fixed Musket or Fuzee, with a Worm and Priming-wire; and *Two Shillings and Six-pence* for the want of every Cartouch-Box; and *Two Shillings* for the want of nine Charges of Gunpowder and Ball, and three Flints, or any of them.

AND BE IT FURTHER ENACTED,

That every such Male Person shall and are hereby required to attend in their proper Persons with the Arms, Ammunition and Accoutrements aforesaid, in good Order and fit for Service, at the respective Places of Meeting, in each Hundred, that shall be for that Purpose appointed by the Commanding Officer under whom they are enlisted, six times in every Year, *That is to say*, On the last *Friday* in the Months of *March, April, May, July, September* and *October*, in the County of *New-Castle*, and the last *Saturday* in each of the said Months in the Counties of *Kent* and *Suffex*, each Day at the Hour of Twelve, in order to be taught, and instructed, in the Military Exercise, and shall continue under Arms any Time not exceeding four Hours, and shall yield due Obedience unto the Orders and Commands of their respective Officers; and every Person refusing or neglecting to appear on the Days and Times aforesaid, armed in Manner aforesaid (unless he render such a reasonable Excuse to the said Commanding Officer as he shall allow and approve of) or shall refuse or neglect to yield Obedience to the Orders and Commands of his said Officers, shall, for every such Default, forfeit and pay the Sum of *Five Shillings*.

Officers to exercise their Companies six Times a Year.

AND BE IT FURTHER ENACTED,

That the Colonel of each respective Regiment within this Government, or, in case of his Death or Absence, the next Commanding Officer, shall and may (if Occasion requires) once in every Year, direct the whole Regiment under his Command to meet at such Time as he shall appoint, and at such Place as, from its Situation, he shall adjudge to be near the Center of his Regiment, and most convenient for the several Companies that compose the same, in order for a general Review of the same; and every Male Person in the said County, under Fifty, and above Seventeen Years of Age, are hereby strictly required and enjoined to meet at the Place so appointed, with the Arms, Accoutrements and Ammunition above mentioned, in good Order, and then and there shall yield due Obedience to the Orders of such Colonel or Commanding Officer; and every Person refusing or neglect-

General Review once a Year.

D

ing

ing to attend in Manner aforesaid (unless a reasonable Excuse shall be made to, and allowed of by, such Officer) or shall refuse or neglect to yield Obedience to the Commands of such Officer, shall, for every such Default, pay the Sum of *Seven Shillings and Six-pence*.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That once in every Year the Captains, or in their Absence, the next Commanding Officer of every respective Company, shall deliver to the Colonel, or, in his Absence, to the next Commanding Officer of the Regiment for each County, a Muster Roll, under his Hand, containing the Names of all the Persons belonging to, and enlisted in, his Company, under the Penalty of *Three Pounds* for such Neglect. And the said Colonel, or next Commanding Officer, shall, within two Months next after the Receipt of such Roll, send a Copy thereof, under his Hand, to the Governor, or Commander in Chief of this Government for the Time being, under the Penalty of *Five Pounds*.

Muster Rolls
to be delivered
to the
Colonels.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That the Commander in Chief of this Government for the Time being, may, and shall make and establish such Articles and Rules for the regulating and better governing of the Militia of this Government, while under Arms, or in actual Service, as he shall judge meet and expedient. **PROVIDED ALWAYS,** That no Punishment, to be inflicted by the said Articles or Rules for the Breach thereof, shall be otherwise than by Fine, not exceeding *Five Pounds*, or Imprisonment, not exceeding ten Days; and all Captains, or other Commanding Officers, are hereby required publickly to read such Articles and Rules, so made, at the Head of his Company, when and as often as they shall meet to be exercised in the Manner above directed; and every Person, so enlisted, shall yield due Obedience to, and shall strictly observe, the Rules laid down in such Articles, under the Pain of incurring the Penalties therein prescribed for the Breach thereof.

Commander
in Chief to
make Arti-
cles for Go-
verning Mi-
litia.

The Punish-
ment for
Breach
thereof.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That the firing four Muskets, successively and distinctly, and the beating of a Drum, or the firing two great Guns, at four Minutes Distance of Time, and the beating of a Drum, shall be the Signals of, and be deemed and taken to be, an Alarm. And the Commanding Officer of each Company, who shall first have Notice of an Alarm, shall forthwith raise the Company under his Command,

The Signals
of an Alarm.

Command, and if, on sending Notice thereof to either of the Field-Officers of his Regiment, he shall receive Orders to that Purpose, he shall also send immediate Notice and Intelligence thereof to the Commanding Officer of the next Hundred or District, who shall in like Manner cause Notice to be given to the next Commanding Officer, and so on 'till general Notice be given throughout the whole County. And the Captain or other Commanding Officer of each respective Company shall march, with his Company, to such Place of Rendezvous as shall be appointed by the Colonel of his Regiment, and shall and are hereby impowered, on such Occasions, to impress Horses and Carriages, as the Service may require, under the Penalty of *Thirty Pounds* for each and every such Default or Neglect, and being degraded and thereafter rendered incapable of holding or exercising any Office Civil or Military within this Government. And every Lieutenant and Ensign, upon such Alarm, neglecting or refusing to join his respective Company, and do the Duties of his Office, shall forfeit and pay: the Lieutenant the Sum of *Twenty Pounds*, and the Ensign the Sum of *Ten Pounds*, and be also degraded and thereafter rendered incapable of holding or exercising any Office Civil or Military within this Government.

AND BE IT FURTHER ENACTED, by the Authority aforesaid, that upon every such Alarm, every Person within this Government, above the Age of Seventeen Years, and under the Age of Fifty, and every Officer under the Degree of a Captain, shall, and is hereby required immediately to repair with the Arms and Accoutrements aforesaid to the Habitation of the Captain of the Hundred in which he resides, or the Company in which he is enlisted, unless some other Place shall be appointed for that Purpose, there to receive such Orders, and march to such Place as he shall appoint, and shall obey all such Commands as the said Captain, or next Commanding Officer, shall give, and shall not depart from his Colours, without Leave of the said Officer first had and obtained, under the Penalty of *Five Pounds* for each and every such Default and Offence.

Upon an Alarm to repair to the Habitation of the Captain.

AND BE IT FURTHER ENACTED, That if any Field-Officer of the respective Regiments in this Government, in the Time of an Alarm, Invasion or Insurrection, shall neglect or refuse to do the Duty of his Office, such Field-Officer so offending shall forfeit and pay for such Offence, *That is to say*, a Colonel, the Sum of *One Hundred Pounds*; a Lieutenant-Colonel, the Sum of *Eighty Pounds*;

Forfeitures in Case of Neglect of Duty upon an Alarm.

Pounds; and a Major, the Sum of *Sixty Pounds*; and moreover shall be cashiered, and ever after rendered incapable of holding or exercising any Office, Civil or Military, within this Government.

A N D if any Person or Persons, except an Officer, or some Person by him impowered and directed, shall presume to make the Signals of an Alarm, in Manner aforesaid, within this Government, he or they shall for such Offence forfeit and pay the Sum of *Ten Pounds*.

Penalty on
making
false Alarm.

A N D, for the preventing any false Alarms being made B E I T E N A C T E D by the Authority aforesaid, That from and after the first Day of *January* next, no Person or Persons shall presume to fire any small Arms or Guns, from two Hours after Sun-set until one Hour before Sun-rise, unless in case of Invasion, Descent or Insurrection, or other lawful Occasion, under the Penalty of *Twenty-Shillings* for every such Offence. And that no Captain, Master, or Commander of any Ship, or other Vessel, within any Port or Harbour in this Government, shall fire, or suffer to be fired, any great Guns or small Arms on Board such Ship or Vessel, within the Times aforesaid, under the like Penalty of *Twenty Shillings*.

Persons disabled in any Service under this Act to be maintained by the County.

A N D B E I T F U R T H E R E N A C T E D, That if any Person or Persons, either Officers or Soldiers, shall be wounded or disabled upon an Invasion, or in any Military Service under this Act, he or they shall be taken Care of, supported and maintained, according to his Rank and Dignity, at the Publick Charge of the County to which he or they belong, during the Time of his or their Disability.

No Person intitled to be arrested on Muster Days.

A N D B E I T F U R T H E R E N A C T E D by the Authority aforesaid, That no Person or Persons, by this Act directed and required to meet and muster at the Days and Times aforesaid, shall be liable to be arrested, or taken by any Sheriff, Constable or other Officer, in any Civil Action whatsoever, on the Day of such Meeting, or in any reasonable Time either in going to, continuing at, or returning from such Place or Places of Meeting, but every such Arrest shall be, *ipso facto*, void, and the Officer making the same shall be liable to an Action of Trespass, for false Imprisonment, at the Suit of the Party so arrested, contrary to the Directions of this Act; and the said Party shall be forthwith set at Liberty, and discharged from the Custody of such Officer,

cer, by Order of any two Justices of the Peace of the County where such Arrest is made : And the Arms, Ammunition and Accoutrements aforeaid, of every Person required by this Act to provide and keep the same, for Military Service, shall be and are hereby declared to be exempt and privileged from all Distresses, Executions, Extents, Attachments or other Process whatsoever ; and any Civil Officer distraining, seizing, attaching or taking the same in Execution, shall forfeit and pay the Sum of *Twenty Shillings* to the Party grieved ; and any Sale thereof by him made shall be null and void.

Arms &c.
not liable to
Executions,
&c.

AND BE IT FURTHER ENACTED by the Authority aforeaid, That no Captain, or other Officer, shall appoint any Place of Meeting for his Company (Town Companies only excepted) within the Distance of half a Mile of any Inn or Tavern, under the Penalty of *Forty Shillings* for every such Offence : And that no Person or Persons shall presume to keep any Booth or Tent, or expose to Sale at, or bring, on any Pretence whatsoever, any strong Liquor to such Place of Meeting, under the Penalty of *Forty Shillings* for every such Offence.

Country
Companies
not to be mu-
stered near a
Publick-
House.

AND BE IT FURTHER ENACTED, That the several Treasurers of the respective Counties in this Government, shall, at the Publick Expence, provide for each Company in the said Counties, not already furnished or provided therewith, one good Drum, a Pair of Colours, and two Halberds, which Expence and Cost is hereby ordered to be raised and levied by the Levy Courts of the several Counties, at the usual Time of laying the Levies, and raised in the Manner as other County Rates and Levies are.

Colours, &c.
to be provid-
ed at the
Charge of
each Coun-
ty.

AND BE IT FURTHER ENACTED by the Authority aforeaid, That each Captain shall nominate and appoint a proper and capable Person out of his Company to be his Drummer, and in Consideration of such Service he shall be, and is hereby declared to be, exempted from providing himself with the Arms and Accoutrements required of every other Person by this Act, and shall also receive the yearly Salary of *Thirty Shillings*, to be raised and paid as other County Rates and Levies are.

Captains to
appoint
Drummers.

Drummer's
Pay.

AND BE IT FURTHER ENACTED by the Authority aforeaid, That all Supreme Judges, all Justices of the Peace, Prothonotaries, Registers, Lawyers, Physicians, Surgeons, all Persons who have acted as commissioned
E Officers
Persons ex-
empted from
Military
Duty.

Officers under any former Militia Law of this Government, one Miller to every Grift-mill, and every Keeper of a publick Goal, within this Government, shall be, and are hereby declared to be, free and exempt from actual Military Duty or Service whatsoever, except on a general Alarm, or in the Time of actual Invasion, at which Times they shall appear, and do Duty, in the same Manner as other Persons are directed and required by this Act, under the like Penalties imposed herein on other Offenders.

Persons ex-
empt to
keep Arms,
&c.

PROVIDED ALWAYS, That nothing herein contained shall be deemed or construed to exempt such Persons from providing, and keeping at all Times by them fit for Service, such Arms, Ammunition and Accoutrements, as others are required to do, under the Penalty of forfeiting and paying, for every such Offence, the Sums imposed on other Delinquents. And all Ministers of the Gospel, and *Quaker* Preachers, are hereby exempted, freed and discharged, from all and every of the Duties and Services required of others by this Act.

How Fines
to be re-
covered, and
to whom
Paid.

AND BE IT FURTHER ENACTED by the Authority aforesaid, that the several Fines and Forfeitures mentioned in this Act, due from any Person under the Degree of a commissioned Officer, that do not exceed the Sum of *Twenty Shillings*, shall be paid by the Person or Persons offending to the Captain of the Company of the Hundred or District in which such Person lives, within ten Days after the Commission of such Offence, and shall be laid out by the said Captain towards the purchasing Arms, Ammunition and Accoutrements, for such Persons in the said Company as shall not (in the Judgment of the said Captain) be of Ability to purchase the same: And in case of Non-payment of the said Fines and Forfeitures, within the time aforesaid, the said Captain shall make Application to any Justice of the Peace of the respective County in which he resides, who shall thereupon issue his Warrant against such Persons as the said Captain shall return to him, directed to any Constable of the County, thereby commanding him to bring the Body of such Person or Persons before him, or some other Justice of the said County, to answer the Charge of the said Captain; and such Justice shall proceed to Hearing and Judgment therein, according to the Equity and Justice of the Case, and the Directions and true Intent and Meaning of this Act, with Costs as in other Cases; and in case Judgment shall pass against the Defendant, the Fine and Costs arising on such Judgment shall be levied by Distress and Sale of the Offenders

ders Goods and Chattles, by Warrant, under the Hand and Seal of any one Justice of the Peace of the County wherein such Fine or Forfeiture arises: And in case no Goods or Chattles can be found, then by Imprisonment of the Body of the said Offender, until Payment made of the said Fine: And the said Captain shall settle an Account once in every Year with the Colonel of the Regiment to which he belongs, shewing what Fines he hath received, and how he hath disposed of the same. And all such Fines and Forfeitures, exceeding the Sum of *Twenty Shillings*, that shall not be paid to the Captain within the Time aforesaid, shall be recovered by Warrant, under the Hands and Seals of any three Justices of the Peace of the County in which the Offence is committed, and be disposed of in Manner above directed. And all Fines by this Act imposed on any commissioned Officer, under the Degree of a Colonel, for a Breach or Neglect of his Duty, shall be paid, within the Time above mentioned, to the Colonel of the Regiment to which such Officer doth belong, to be recovered by the said Colonel in any Court of Record within this Government, by Action of Debt, Bill, Plaint or Information, wherein no Effoin, Protection or Wager of Law, shall be allowed, nor any more than one Imparlance, and shall be applied by the said Colonel to the purchasing of Arms, Ammunition and Accoutrements, for such Company or Companies as may stand most in Need of the same. And from the Time of such Conviction such Officer shall be, and is hereby declared to be, incapable thenceforth from holding, enjoying, or exercising any Office, Civil or Military within this Government. And each respective Colonel shall, annually, account with the Assembly of this Government for all Fines by him received, and applied in Manner aforesaid. And all Fines by this Act imposed on a Colonel, for a Breach or Neglect of his Duty, shall be paid by him, within the Time aforesaid, to the County Treasurer, for the time being, of the County in which he resides, to be recovered in Manner and Form last above mentioned, and applied by the said Treasurer to the purchasing of Arms, Ammunition and Accoutrements, for such Company or Companies as the Lieutenant-Colonel and Major of the said Regiment shall direct and appoint. And the said Treasurer shall annually account with the Assembly of this Government for such Fines so received and applied.

AND BE IT FURTHER ENACTED,
That all Fines and Forfeitures due from any Persons offending against this Act, who shall happen to be under twenty-one Years of Age, shall be paid by the Parent, Guardian
or

or Master of such Minor, on demand, and in case of Non-payment on such Demand, the said Parent, Guardian or Master, shall be proceeded against, and the said Fines and Forfeitures levied off them, in the same Manner as if they themselves were the principal Persons offending.

Penalty on
Justices or
Colonels re-
fusing to re-
cover Fines.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That if any Justice or Justices of the Peace, within this Government, shall refuse or neglect to issue Warrants in Manner aforesaid, on Application to him or them for that Purpose made by the proper Officer, or if any Colonel or Captain, or other Commanding Officer, shall, through Favour or Partiality, neglect or refuse to recover and receive the Fines and Forfeitures, by this Act imposed on Persons offending against the same, or any Part thereof, and shall be thereof convicted by the Testimony of two credible Witnesses, or the Confession of the Party offending, before the Justices of the Court of Quarter-Sessions for the County where such Offence shall be committed, who are hereby empowered and required in a summary Way to hear and determine the same, he or they, so offending, shall forfeit and pay the Sum of *Four Pounds*, to be levied, with Costs, by Process, issuing out of the said Court; and such Forfeiture shall be applied to the Use of the Poor of the County respectively.

Officers sued
may plead
the general
Issue, and
give this Act
in Evidence.

AND BE IT FURTHER ENACTED, That if any Suit or Action shall be brought against any Officer, Civil or Military, for doing the Duty enjoined or required of him or them by this Act, he or they may plead the general Issue, and give this Act in Evidence; and if the Plaintiff in such Suit shall discontinue his Action, be Non-suited, or a Verdict shall pass against him, or Judgment be given against him on Demurer, he shall pay to the Defendant treble Costs.

Limitation
of this Act.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That this Act shall continue and be in Force so long as the War, proclaimed by his Majesty against the *French King*, shall continue, and no longer.

Signed by Order of the House,

BENJAMIN CHEW, *Speaker.*

Passed

November 5, 1757.

XIV.

ments, (unless their remaining estate be sufficient to answer what they are then in arrear) are hereby declared fraudulent, and shall not prevent or avoid the seizing and selling the same estates, on any judgment that may be had on suits to be brought for the recovery of the monies so in arrear.

SECT. 15. *And be it enacted*, That the said state treasurer, before the first day of November next, shall become bound unto the Delaware state, with two or more sufficient sureties, to be approved of by the president or commander in chief for the time being, in an obligation of fifteen thousand pounds, conditioned for the true observation of this act and the duty which to the said office doth appertain; and in case of neglect or refusal of the said state treasurer so to do, or of his death in the recess of the general assembly, it shall and may be lawful for the president or commander in chief, with the approbation of the privy-council, to appoint some other fit person to supply his place, who shall give security as aforesaid.

State treasurer to give bond.

His place how supplied in case of delinquency, &c.

SECT. 16. *And be it enacted*, That if any of the days appointed by this act for the performance of any of the duties herein required, shall happen to be on a Sunday, then such duties shall be performed on the day following.

WHEREAS it appears, that sundry collectors of the state taxes directed to be raised for the service of the years seventeen hundred and eighty-one, eighty-two, eighty-three and eighty-four, have through their indulgence, omitted to execute for those taxes within the times limited by law, and this general assembly being willing to give the same summary mode to the said collectors to collect the arrearages of such taxes, as they could have had under the several acts of assembly passed for those purposes.

SECT. 17. *Be it enacted*, That the collectors respectively of the said several state-taxes, heretofore appointed, or hereafter to be appointed for that purpose, be and they hereby are impowered to collect all arrearages and balances due of the said taxes by, execution, or otherwise, between the time of passing this act and the first day of November next, in as full and ample manner as heretofore could have been done had the same been done within the time limited by law.

Summary mode for collecting the arrearages of taxes.

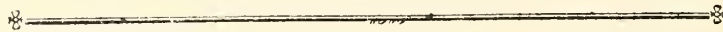
Signed by Order of the House of Assembly,

THOMAS DUFF, *Speaker.*

Signed by Order of the Council,

THOMAS M'DONOUGH, *Speaker.*

Passed at DOVER, }
June 4, 1785. }



AN ACT for establishing a Militia.

SECTION I. **W**HEREAS a well regulated Militia is the proper and natural defence of every free state; and as the laws heretofore made for the regulation thereof within this state are expired, and it is necessary that a militia be established;

Preamble.

(SECT. 2. *Be it therefore enacted by the General Assembly of Delaware,*
That the late captain or commanding officer of each militia company in the

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Returns to be made to the colonels of regiments, of all able-bodied male inhabitants within the districts of companies, &c.

the several counties of this state, shall, on or before the first day of August next, make an exact return to the late colonel or commanding officer of the regiment to which he did formerly belong, of the names and surnames of every able-bodied effective male white inhabitant between the ages of eighteen and fifty years, then residing in the district of which he was formerly captain or commanding officer; a copy of which return the said colonel or commanding officer of such regiment shall immediately transmit to the president or commander in chief of this state: And all male white persons between the ages aforesaid (clergymen and preachers of the gospel of every denomination, justices of the supreme court, keepers of the public gaols, school-masters teaching a Latin-school, or having at least twenty English scholars, and indented servants bona fide purchased, excepted) who on the said first day of August next, shall reside in any district or sub-division heretofore laid off in pursuance of the late militia laws of this state shall be considered as belonging to the militia company for such district or sub-division.

Officers in the military line, by whom appointed.

SECT. 3. *And be it enacted*, That the president or commander in chief shall, on or before the first day of October next, appoint and commission one colonel, one lieutenant-colonel and one major to command each of the regiments, and one captain, two lieutenants, and one ensign to command each of the companies within this state; and in case of the vacancy of a colonel, lieutenant colonel or major, captain, lieutenant or ensign, the president or commander in chief shall appoint and commission such person to fill the said vacancy as he shall judge most suitable for that purpose.

Quarter-masters, &c. by whom appointed. Militia to be divided into classes.

SECT. 4. *And be it enacted*, That the field officers of each regiment shall appoint a quarter master and adjutant, a drum and a fife major for the regiment, and the commissioned officers of each company shall appoint four sergeants, four corporals, one drum and one fife for their respective companies.

Rolls thereof to be formed, and transmitted to the colonel.

SECT. 5. *And be it enacted*, That on the tenth day of April next ensuing, the captain or commanding officer of each company shall call the persons belonging to the same together, giving due notice, and shall divide them into eight classes, as nearly equal in number to each other, as conveniently may be, allotting a sergeant or a corporal to each class, and eight slips of paper numbered respectively from one to eight being prepared, every private shall determine, by drawing a ballot, what class he is to serve in; and in case any of the persons belonging to any company shall neglect to attend at the time and place appointed for classing the said company, or if present, shall refuse to draw as aforesaid, then the said captain or commanding officer thereof shall appoint one disinterested freeholder to draw for the absentees or persons so refusing; and when the classes shall be so settled, the captain or commanding officer of each company shall form a roll consisting of the eight classes, and the names and surnames of the men in each class, numbered according to the order of balloting, which he shall keep for his own use and direction, transmitting forthwith a copy thereof, with a list of his commissioned and non-commissioned officers prefixed, to the colonel or commanding officer of the regiment, who shall enter the same in a book by him to be provided for that purpose: And the said captain or commanding officer shall in the month of April in the year of our Lord one thousand seven hundred and eighty-seven, and in the month of April in every succeeding year, add to the said roll the names and surnames of all such male white inhabitants between the ages aforesaid, who on the next preceding twelve months have removed to, and are then residing in, that sub-division, or therein have attained to the age of eighteen years, except as herein before are excepted, annexing them respectively to such class or classes as may still render all the classes of a company as nearly equal in number to each other as conveniently may be.

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Sect. 6. *And be it enacted*, That every company shall be duly exercised and instructed in the months of April and September annually, at such time and place as the captain or commanding officer shall direct, he giving notice thereof by advertisement at three of the most public places in his district, at least five days before the day of muster; and every regiment shall be reviewed on the first Wednesday in June and the second Wednesday in October in every year, and be properly trained and disciplined at such place as the colonel or commanding officer shall direct, and at such other times and places as the president or commander in chief shall think necessary, and shall order.

Militia how often to be exercised.

Sect. 7. *And be it enacted*, That every person between the ages of eighteen and fifty, or who may hereafter attain to the age of eighteen years, except as before excepted, whose public taxes may amount to twenty shillings a year, shall at his own expence, provide himself; and every apprentice, or other person of the age of eighteen and under twenty-one years, who hath an estate of the value of eighty pounds, or whose parent shall pay six pounds annually towards the public taxes, shall by his parent or guardian respectively be provided with a musket or firelock, with a bayonet, a cartouch box to contain twenty three cartridges, a priming wire, a brush and six flints, all in good order, on or before the first day of April next, under the penalty of forty shillings, and shall keep the same by him at all times, ready and fit for service, under the penalty of two shillings and six pence for each neglect or default thereof on every muster day, to be paid by such person if of full age, or by the parent or guardian of such as are under twenty-one years, the same arms and accoutrements to be charged by the guardian to his ward, and allowed at settling the accounts of his guardianship.

What persons shall provide arms, &c.

Penalty for neglecting to keep them in repair.

Sect. 8. *And be it enacted*, That every male white person within this state, between the ages of eighteen and fifty, or who shall hereafter attain to the age of eighteen years, except as before excepted, shall attend at the times and places appointed in pursuance of this act for the appearance of the company or regiment to which he belongs, and if any non-commissioned officer or private, so as aforesaid required to be armed and accoutred with his firelock and accoutrements aforesaid in good order, or if any male white person between the ages aforesaid although not required to be so armed and accoutred, shall neglect or refuse to appear on the parade and answer to his name when the roll is called over, which the commanding officer is hereby directed to cause to be done at the distance of one hour after the time appointed for meeting, not having a reasonable excuse, to be adjudged of by a court-martial to be appointed by the commanding officer of the company, which shall consist of a subaltern and four privates, the subaltern to be president thereof, every such person shall forfeit and pay the sum of four shillings for every such neglect or refusal; and if the said court-martial shall adjudge, that such person had not a reasonable excuse for such neglect or refusal, the justice to whom the captain or commanding officer of the company shall make return of the proceedings of such court martial shall enter judgment and issue execution thereupon, unless it shall appear to him, that the defendant was sick, or out of the county on some necessary business, and had not an opportunity of being heard before the court-martial.

Penalty on privates for non-attendance, &c.

How to be adjudged.

Sect. 9. *And be it enacted*, That every person required to attend as aforesaid at the time and place of exercise in company, or in regiment, who shall then and there appear, and shall neglect or refuse to answer to his name when the roll is called over, or to obey the lawful commands of his commanding officer or to perform his exercise with the care and attention requi-

For neglect of duty, the penalty.

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lite

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site therein, being convicted of any of the said offences, by a court-martial to be appointed as aforesaid, shall forfeit and pay for every such offence, any sum not exceeding ten shillings.

Fines incurred by minors, of whom to be recovered.

SECT. 10. *And be it enacted*, That if any person of the age of eighteen and under twenty-one years, who is hereby required to attend at the time and place of exercise in company, or in regiment, shall neglect or refuse to appear on the parade and answer to his name when the roll is called over, or shall then and there appear, and shall neglect or refuse to answer to his name, when the roll is called over, or to obey the lawful commands of his commanding officer, or to perform his exercise with the care and attention requisite therein, the fines and penalties by this act in such case to be incurred by him, shall be recovered of his parent, guardian or master, (if found to be the fault of the master) in the same manner as if such parent, guardian or master had personally incurred such fines and forfeitures, and shall in the case of a guardian be by him charged to his ward when of age.

Commissioned officers to be fined for neglect of duty.

SECT. 11. *And be it enacted*, That every commissioned officer who shall neglect or refuse to appear at the time and place appointed for exercise in regiment, having no reasonable excuse, to be adjudged of by such of the officers present as any two of the field officers shall appoint, and there do and perform his duty according to his office and station, shall forfeit and pay, if a colonel, thirty shillings; if a lieutenant-colonel, twenty-two shillings and six pence; if a major, fifteen shillings; if a captain, ten shillings; and if a subaltern or staff officer, seven shillings and six pence: and every commissioned officer who shall refuse or neglect to appear at the time and place appointed for exercise on other muster days, having no reasonable excuse, to be adjudged of by the officers present, or a majority of them, shall forfeit and pay the sum of ten shillings, if a captain, and the sum of seven shillings and six pence if a subaltern.

A clerk to be appointed for each company.

SECT. 12. *And be it enacted*, That the commissioned officers of every company shall appoint such serjeant thereof as they shall judge best qualified for that business, to be clerk thereto, who shall keep in a book, to be provided by him for that purpose, to be viewed and examined from time to time by the commanding officer thereof, a fair and exact account of all fines and forfeitures incurred by persons belonging to the same, noting therein at the time and place appointed for meeting in company or regiment the names of the persons belonging to his company and then absent; a transcript of which entries of fines and forfeitures the said clerk shall deliver to the treasurer of his regiment once in three months, by whom he shall be paid thirty shillings a year for his services aforesaid as clerk.

and pay.

The commanding officer of each company to sue for fines incurred.

SECT. 13. *And be it enacted*, That the commanding officer of every company is hereby empowered and required to sue for and recover, in the manner herein after directed, all fines and forfeitures incurred as aforesaid by any officer, non-commissioned officer or private belonging to his company, and being so recovered shall forthwith pay over the same into the hands of the treasurer of the regiment to which he doth belong, deducting one shilling in the pound for collecting the same: and if any such commanding officer shall neglect or refuse to sue for and recover all fines and forfeitures incurred in his company once in every six months, and pay over the same, agreeable to the directions of this act, he shall forfeit and pay the sum of five pounds for the first offence, and for the second and every other offence the sum of ten pounds.

Penalty for neglect.

A treasurer for each regiment to be chosen annually.

SECT. 14. *And be it enacted*, That it shall and may be lawful for the commissioned officers of each regiment to meet on the first Wednesday in June

June annually, and choose by ballot, to be taken under the inspection of the field officers, or such of them as attend, one reputable frecholder, not being one of the said commiſſioned officers, to be treasurer to ſuch regiment for the year thence next enſuing.

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Sect. 15. *And be it enacted*, That the treasurer of each regiment in the ſeveral counties of this ſtate, before he enters on the duties by this act required of him, ſhall give bond to the colonel of the ſame, in ſuch ſum, and with ſuch ſureties as he ſhall approve of, conditioned for the faithful performance of the duties hereby enjoined him, and ſhall pay over all ſuch ſums of money as ſhall come into his hands, in purſuance of this act, in the manner herein directed; and at the expiration of the year for which he was choſen, ſhall render an account to the general aſſembly, or their committee, of all monies that have come into his hands as treaſurer of ſaid regiment, and in what manner he hath diſpoſed of the ſame, and the balance remaining in his hands, if any, ſhall forthwith, after ſuch account rendered, be paid over to the orders of the general aſſembly, after deducting fix pence in the pound for his trouble.

He ſhall give bond,

and account with the General Aſſembly.

Sect. 16. *And be it enacted*, That all fines and forfeitures that ſhall be paid into the hands of any treaſurer of a regiment, in purſuance of this act, ſhall be applied for the purpoſe of purchaſing arms, accoutrements and ammunition for the uſe of the regiment, as the preſident or commander in chief from time to time ſhall order and direct, and for purchaſing ſuch drums colours and fifes for the ſeveral companies, and alſo for paying adjutants, drummers and fifers, and in ſuch manner as the field officers thereof, ſhall, from time to time order and direct.

Appropriation of the fines.

Sect. 17. *And be it enacted*, That the preſident or commander in chief ſhall have full power and authority, in caſe of invasion, rebellion, or inſurrection, within this ſtate, or in caſe of actual invasion of the ſtate of Maryland, New Jerſey, Pennsylvania, or the eaſtern ſhore of Virginia, to call into ſervice ſuch part of the militia, by claſſes as to him ſhall ſeem neceſſary; the firſt draught to be compoſed of the claſs number one, of each company; and in caſe the firſt draught ſhall not be ſufficient for the exigency, then the claſs number two ſhall be drawn, and ſo on by claſſes, from time to time, as occaſion may require: and to the end that each particular draught may be ſuitably officered, the following order is hereby directed and enjoined; that is to ſay, for the firſt draught, the captain of the firſt company, the firſt lieutenant of the ſecond company, the ſecond lieutenant of the third company, and the enſign of the fourth company. For the ſecond draught, the captain of the ſecond company, the firſt lieutenant of the firſt company, the ſecond lieutenant of the fourth company, and the enſign of the third company. For the third draught, the captain of the third company, the firſt lieutenant of the fourth company, the ſecond lieutenant of the firſt company, and the enſign of the ſecond company. For the fourth draught, the captain of the fourth company, the firſt lieutenant of the third company, the ſecond lieutenant of the ſecond company, and the enſign of the firſt company. For the fifth draught, the captain of the fifth company, the firſt lieutenant of the ſixth company, the ſecond lieutenant of the ſeventh company, and the enſign of the eighth company. For the ſixth draught, the captain of the ſixth company, the firſt lieutenant of the fifth company, the ſecond lieutenant of the eighth company, and the enſign of the ſeventh company. For the ſeventh draught, the captain of the ſeventh company, the firſt lieutenant of the eighth company, the ſecond lieutenant of the fifth company, and the enſign of the ſixth company. For the eighth draught, the captain of the eighth company, the firſt lieutenant of the ſeventh company, the ſecond lieutenant of the ſixth company, and the enſign of the fifth company.

Preſident may call out the militia upon invasion, &c.

Draughts how officered.

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Rotation of
duty among
field-off. cers.

how ascertain-
ed.

Militia how
relieved.

Their pay
and rations.

Not to be
kept out of
the state long-
er than, &c.

Who may call
out the Mil-
itia in the ab-
sence of the
President.

How notice
shall be given
to the classes
ordered to
march.

Penalty for
neglect.

Sec. 18. *And be it enacted*, That the several colonels, lieutenant-colonels and majors of the regiments composing a brigade in each county, shall, on or before the twelfth day of October next ensuing, meet together and decide the rotation of duty among them, by several and separate lots in numerical order as aforesaid, in the several lines of office; which being done, a roll thereof shall be immediately made and subscribed by them all, and returned to the general of the brigade, and by him, he first taking a copy thereof, without delay, be transmitted to the president or commander in chief; and if the field officers aforesaid shall neglect to decide the rotation of duty, or to return the roll subscribed as aforesaid to the brigadier-general, or if brigades or detachments shall be composed of classes from different counties, the field officers shall take their tour of duty according to their respective ranks, in such manner as the president or commander in chief shall direct and order, each class to be considered as detachments from different corps, liable to serve any term not exceeding six weeks, and to be relieved by the class next in numerical order, the relief to arrive at least two days before the expiration of the term of the class to be relieved: but nothing herein contained shall prevent the president or commander in chief from employing or calling out the whole of any regiment where it may be necessary, or the whole of any company, without respect to this rule, whenever the exigency is too sudden to assemble the militia which compose the particular classes. And the militia in actual service shall receive the same pay and rations as continental troops, their pay to commence two days before their marching by classes, and receive pay and rations till their return home: provided, that not more than one fourth of the classes of the militia shall be sent and kept out of this state at any time, nor shall any part of the militia be retained in actual service out of this state, longer than the invasion of the adjoining state continues.

Sec. 19. *And be it enacted*, That in case of the absence of the president or commander in chief of this state, on any insurrection, rebellion, or invasion, the general or commanding officer in the military line, in each county respectively, is hereby authorized and directed to issue his orders, to call out such part of the militia as he may judge immediately necessary, and shall forthwith transmit an immediate account thereof to the president or commander in chief.

Sec. 20. *And be it enacted*, That the general of each brigade upon receiving orders from the president or commander in chief, for any class or classes of militia, to be called out by virtue of this act, shall give due notice thereof to the commanding officers of regiments, they to the commanding officers of companies respectively, who shall forthwith give the same to the class or classes ordered to march, and without delay certify in writing under their hands respectively, to the commanding officer of the regiment in what manner such orders have been executed, and shall make returns in writing of those who are then sick, or absent out of the county; and for such service each commanding officer of a company shall receive from the treasurer of the regiment, out of the fines and forfeitures incurred by this act, the sum of thirty shillings and no more. And such commanding officer of the regiment shall forthwith transmit a copy of such returns to the brigadier general aforesaid. And if the commanding officer of a regiment shall neglect or refuse to give such notice as he is hereby directed to give, or if the commanding officer of a company shall neglect or refuse to give such notice as he is hereby directed to give, or to certify as aforesaid, he shall forfeit and pay to the treasurer of the regiment the sum of ten pounds.

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SECT. 21. *And be it enacted*, That if any person of the age of eighteen and under twenty-one years, who by this act is required to march with his class, company or regiment, shall neglect or refuse so to do, the fines and penalties by this act in such case to be incurred by him, shall be recovered of his parent, guardian, or master, (if found to be the fault of the master) in the same manner as if such parent, guardian or master had personally incurred such fines and forfeitures, and shall, in the case of a guardian, be by him charged to his ward when of age.

Fines incurred by minors for neglecting to march, of whom recovered.

SECT. 22. *And be it enacted*, That every field officer within this state, who shall refuse or neglect to take his tour of duty, when the militia of this state shall be called into actual service by classes, companies, or regiments, having no sufficient excuse, to be adjudged of by a court-martial, to be appointed by the commanding officer of the brigade to which he belongs, shall forfeit and pay, if a colonel, thirty pounds, if a lieutenant-colonel, twenty-two pounds and ten shillings, if a major, fifteen pounds; and every other commissioned officer who shall refuse or neglect to march with his class, company or regiment, when the same shall be called into actual service, and continue with the same until such class, company, or regiment is discharged, having no reasonable excuse, to be adjudged of by a court martial, to be appointed by the colonel of the regiment to which he belongs, shall forfeit and pay the sum of ten pounds, if a captain, and the sum of seven pounds and ten shillings, if a subaltern or staff officer. And every non-commissioned officer and private, except as before excepted, who shall refuse or neglect to attend at the time and place appointed for any class or company to meet, or having met, shall refuse to march with his class or company, and continue with the same until such class or company is discharged, not having a reasonable excuse, to be adjudged of by a court-martial, to be appointed by the commanding officer of the company in the manner herein before directed, shall forfeit and pay the sum of five pounds; and the commanding officer of every company shall, immediately after the return of a class or classes of his company, or of his whole company, from a tour of duty, return to the treasurer of the regiment a true list, containing the names of every person belonging to the said class or classes, or company, who hath failed in performing the duties hereby required of him, and such commanding officer neglecting or refusing to return a list as aforesaid, shall forfeit and pay the sum of ten pounds.

Officers neglecting their tour of duty to be fined.

Privates not marching with their classes, &c. to be fined.

List of delinquents to be returned to the treasurer.

SECT. 23. *And be it enacted*, That the firing of four muskets successively and distinctly, and the beating of a drum immediately after for fifteen minutes successively, or the firing of two cannon at four minutes distance of time, and the beating of a drum immediately after for fifteen minutes successively, within this state, shall be signals of, and be deemed and taken to be an alarm; and the commanding officer of each company, who shall have notice of an alarm, shall forthwith cause the assembly to be beat, use his utmost diligence to collect the company under his command, and send immediate notice to all the field-officers in the neighbourhood, and to the commanding officer, or in case of his absence, to some commissioned officer of the next company, who shall in like manner give notice to field officers, and to an officer of the next company, and so on till the notice becomes general, and the field officers shall immediately repair, and the officers of companies shall immediately march with their companies respectively and in proper order, to such place of rendezvous as shall be appointed by the commanding officer; and upon every such alarm every officer of a company under the commanding officer thereof, and every private, shall, and is hereby required immediately to repair with his arms, accoutrements and ammunition, to the habitation of the commanding officer of the company, unless some other place be appointed as aforesaid for that purpose, and shall obey all such lawful commands as shall be given him; and after such company is formed, it shall be

What shall be deemed an alarm.

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Who may
make an
alarm.

considered as in actual service and full pay, and so remain until discharged; and all officers and privates shall continue in service on such alarm, as long as the commanding officer shall judge expedient; and if any person or persons, except a commissioned officer, shall presume to make the signals of an alarm as aforesaid, within this state, he or they shall forfeit and pay for such offence the sum of fifty pounds.

Officers and
privates ne-
glecting their
duty on an
alarm, the
penalty.

Sect. 24. *And be it enacted*, That if any field officer shall not perform the duties belonging to his station in case of an alarm, having no reasonable excuse, to be judged of by a court-martial, to be appointed by the commanding officer of the brigade to which he belongs, he shall forfeit and pay if a colonel, twenty pounds, if a lieutenant-colonel, fifteen pounds, and if a major, ten pounds. And every other commissioned officer who shall not perform the duties belonging to his station, in case of an alarm, having no reasonable excuse, to be adjudged of by a court-martial to be appointed by the commanding officer of the regiment to which he belongs, shall forfeit and pay if a captain, six pounds, and if a subaltern or staff officer, five pounds; and every non-commissioned officer and private who shall not perform the duties required of him in case of an alarm, not having a reasonable excuse, to be adjudged of by a court-martial to be appointed by the commanding officer of the company which he belongs to, in the manner herein before directed, shall forfeit and pay three pounds; and the commanding officer of every company shall immediately after it is discharged from attending on an alarm, return to the treasurer of the regiment a true list containing the names of every person belonging to his company who hath failed in performing the duties required of him on such alarm, and such commanding officer neglecting or refusing to return a list as aforesaid, shall forfeit and pay the sum of six pounds.

Officers guilty
of a breach
of duty to be
removed.

Sect. 25. *And be it enacted*, That if any commissioned officer shall neglect or refuse to perform any thing herein before directed to be done by him, the president or commander in chief is hereby required to remove him from his office, and appoint another in his place, and to issue a commission to the person so appointed accordingly, it being first adjudged by a court-martial to be appointed respectively as the rank of the officer may be, in the manner herein before directed, that such officer had no reasonable excuse for the non-performance of his duty.

Deserters al-
lowed no pay
for duty pre-
vious to deser-
tion.

Sect. 26. *And be it enacted*, That every captain and other officer of the militia, who shall hereafter make out a pay-roll, shall insert therein, as well the names of those who shall have deserted, if any there shall be, as of those who shall serve out their tour, and note such deserters as having deserted, but shall not annex any pay for their time they did duty, previous to their desertion.

Who may is-
sue impress
warrants in
the Presi-
dent's ab-
sence.

Sect. 27. *And be it enacted*, That in case of invasion, rebellion or insurrection as aforesaid, the president or commander in chief, or in his absence, the general or commanding officer in the military line, in each county respectively, is hereby empowered to issue warrants to proper persons, for impressing horses and carriages as the service may require.

The President
may appoint
a major gen-
eral, &c.

Sect. 28. *And be it enacted*, That the president or commander in chief may commissionate one major-general, and three brigadier-generals to command the militia of this state, which major-general is hereby empowered to appoint an aid de camp, and each of the said brigadier-generals to appoint an adjutant for each brigade, who shall have the rank of major.

Commissaries
to be appoint-
ed.

Sect. 29. *And be it enacted*, That a proper person may be appointed by the president or commander in chief, to be commissary of military stores and provisions in each of the counties of this state, when the exigency of
affairs

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1785.

affairs shall render such appointment necessary, whose business and duty shall be to collect together all public arms and military stores, and the same safely and securely to keep in some convenient and proper place, in good order and fit for service, and not to deliver out any of the said arms, stores, or provisions, but by virtue of an order in writing from the president or commander in chief, or in his absence, and in case of emergency, by an order from the officer commanding the militia in the respective counties; and whenever any arms, stores or provisions, shall be so delivered by such commissary, the officer to whom they shall be delivered shall give a receipt for the same, accurately specifying the articles received and the number, and quantity of arms, stores, and provisions respectively, who upon delivering them to the commanding officers of companies shall take receipts in like manner, and the said commanding officers of companies upon delivering them to the privates, shall make entries in a book, fairly kept, specifying the articles and the numbers as aforesaid, and the names of the persons respectively, into whose hands they were by him delivered; which persons respectively, shall be accountable to him, for the full value of every of the said articles received by them in case of abuse, waste, or embezzlement, to be sued for and recovered by him, in the manner herein after directed; and the said commanding officers of companies, and every field officer of the regiment into whose hands any such arms, stores, or provisions may come, shall be accountable to the treasurer of such regiment for the full value of every of the said articles respectively received by them, in case of waste, abuse, or embezzlement, to be sued for and recovered by the said treasurer in like manner; and the said commissary shall make report of the condition of the arms, stores, and provisions, in his care and custody, once in every six months, to the president or commander in chief; and the said commissary is hereby directed to keep a just and fair account of all arms, stores, and provisions which may come to his hands as aforesaid, and of the delivery thereof.

Their duty.

Officers and privates accountable for arms and stores delivered them.

SECT. 30. *And be it enacted*, That the militia of this state, as well without as within the state, be subject only to such articles of war as may be established by the general assembly thereof, and shall be tried by their own officers only.

What articles of war the militia shall be subject to.

SECT. 31. *And be it enacted*, That if any person, either officer or private shall happen to be wounded or disabled upon any invasion, or in any military service under this act, he shall be taken care of, supported, and maintained, according to his rank and dignity, at the public charge of this state, during the time of his disability.

Persons disabled, to be supported.

SECT. 32. *And be it enacted*, That no person or persons, by this act directed to meet and muster, or perform any military duty, shall be liable to be arrested, or taken by any sheriff, constable or other officer, in any civil action whatsoever, on the day of such meeting, in going to, remaining at, or returning from the place of such meeting for muster, or other military duty, but every such arrest shall be void, and the officer making the same, shall be liable to an action of trespass for false imprisonment, at the suit of the party so arrested, and he shall be forthwith set at liberty and discharged from the custody of such officer, by order of any one judge or justice of the peace of the county where such arrest is made, or of the captain of the company to which such person doth belong; and the arms and accoutrements aforesaid of every person required by this act to provide and keep the same for military service, shall be, and are hereby declared to be exempt and privileged from all distresses, executions, extents, attachments or other process whatsoever; and any civil officer distraining, seizing, attaching, or taking the same in execution, shall forfeit and pay the sum of three pounds to the party aggrieved; to be recovered at the suit of said party, in the

Militia exempt from arrests.

Their arms privileged from distress, &c.

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1785.

the same mode other debts, or demands under five pounds are made recoverable by the laws of this state, and any sale of said arms and accoutrements, so as aforesaid exempt, made by any officer, shall be null and void.

Fines under
twelve
pounds how
recovered.

SECT. 33. *And be it enacted*, That all fines or forfeitures under twelve pounds, that may be incurred under this act, shall be sued for and recovered, as debts of forty shillings or under, may now be sued for and recovered; and all and every of the fines and forfeitures of twelve pounds and upwards, by this act made payable, the mode of recovering which is not herein particularly pointed out, shall be sued for and recovered by the treasurer of the regiment to which the officer or person incurring the same belongs, by summons or warrant, and execution, from under the hand and seal of a justice of the peace in the neighbourhood where the person charged resides, directed to the sheriff of the county, requiring him to levy the same on the goods and chattles of the delinquent, and the same cause to be appraised by two freeholders, and after being publicly advertised ten days, to make sale thereof, and after payment of the fine or forfeiture to the treasurer suing for the same, together with costs and charges, pay the overplus, if any, to the owner; and if goods and chattles sufficient to discharge the same cannot be found, that then the justice granting such precept, shall certify the proceedings had thereon, to the prothonotary of the county, who is thereupon required to issue a fieri facias for the levying of the fines and forfeitures aforesaid on the lands or tenements of such delinquents.

Persons ag-
grieved may
appeal.

SECT. 34. *Provided always, and be it enacted*, That if any person or persons shall think him, her or themselves aggrieved by the judgment of the justice aforesaid, in any suit of five pounds and upwards, he, she, or they may appeal before the justice aforesaid, and on the parties giving sufficient security, within six days next after any such judgment, to prosecute such appeal in the court of common pleas of the county with effect, the justice shall receive the same, and stay further process, and the said justice shall return every such appeal on the first day of the next term, and the court shall direct the trial of jury as in other cases of debt, whose verdict shall be final and conclusive; and all such appeals shall be tried at the term to which such returns shall be made; any law, custom, or usage to the contrary notwithstanding.

Officers sued,
their remedy.

SECT. 35. *And be it enacted*, That if any suit or action shall be brought against any officer, civil or military, for doing the duty enjoined or required of him by this act, he may plead the general issue and give this act in evidence, and if the plaintiff in such suit or action shall discontinue the same, be non-suited, or a verdict pass against him, or judgment be given against him, he shall pay the defendant treble costs.

Signed by Order of the House of Assembly,

T H O M A S D U F F, *Speaker.*

Signed by Order of the Council,

T H O M A S M'D O N O U G H, *Speaker.*

Passed at DOVER, }
June 4, 1785. }

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